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OFFICE OF PETITIONS

In re Application of :
Sang et al. : DECISION ON PETITION
Application No. 10/773,451 :
Deposited: February 9, 2004 :
Title: Metallized Multilayer Film :

This is a decision on the "Petition under 37 CFR 1.57(a)" filed October 22, 2007, requesting that the above-identified application be accorded the filing date of February 9, 2004. This petition is being treated pursuant to 37 CFR 1.53(e)(2)¹.

The petition is **GRANTED**.

On August 20, 2007, the Office of Patent Application Processing mailed a "Notice of Incomplete Nonprovisional Application", notifying applicants that the application papers had **not** been accorded a filing date because the application was deposited without a complete specification including at least one claim pursuant to 35 U.S.C. 112.

In response, the present petition was filed on October 22, 2007. The petition contends that the application as filed contained a complete specification including at least one claim pursuant to 35 U.S.C. 112. In support, the petition is accompanied by a copy of applicants' postcard receipt which acknowledges receipt in the office of "New Original Application Including 12 pgs of Spec., 2 pgs, Claims, 1 pgs abstract". Petitioner has also provided a copy of the claims, specification and abstract.

¹ Any request for review of a notification pursuant to paragraph (e)(1) of this section, or a notification that the original application papers lack a portion of the specification or drawing(s), must be by way of a petition pursuant to this paragraph accompanied by the fee set forth in § 1.17(f). In the absence of a timely (§ 1.181(f)) petition pursuant to this paragraph, the filing date of an application in which the applicant was notified of a filing error pursuant to paragraph (e)(1) of this section will be the date the filing error is corrected.

Applicant's postcard receipt is prima facie¹ evidence that a complete specification was received on February 9, 2004, but a complete specification with at least one claim is not present in the file. Therefore, it is concluded that pages of application papers including a complete specification were received on February 9, 2004, as shown in counsel's file.

The \$400.00 petition fee will be refunded.

Since the original pages of specification including at least one claim have not been located, the papers submitted on October 22, 2007 will be used for processing and examination purposes.

The application will be returned to the Office of Patent Application Processing for further processing with a **filing date of February 9, 2004**, using the papers submitted on that day and the copy of the specification provided on October 22, 2007.

Telephone inquiries related to this decision may be directed to Petitions Attorney Charlema Grant at (571) 272-3215.

A handwritten signature in black ink, appearing to read 'Charles Pearson', with a long horizontal line extending from the end of the signature.

Charles Pearson
Director
Office of Petitions

¹A postcard receipt which itemizes and properly identifies the items which are being filed serves as prima facie evidence of receipt in the office of all items listed thereon. See MPEP 503.